



STATE OF DELAWARE

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MEMORANDUM

TO: The Chair and Commissioners

FROM: Lisa B. Driggins, Public Utilities Analyst

A handwritten signature in blue ink, appearing to read "LBD", enclosed in a hand-drawn oval.

DATE: August 30, 2017

SUBJECT: IN THE MATTER OF THE APPLICATION OF ARTESIAN WASTEWATER MANAGEMENT, INC. FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO PROVIDE WASTEWATER SERVICES PURSUANT TO 26 DEL. C. §203D ("COMPASS POINT")
(FILED JULY 13, 2017) - PSC DOCKET NO. 17-0508

On July 13, 2017, Artesian Wastewater Management, Inc. ("AMWT" or the "Company") filed an application (the "Application") with the Delaware Public Service Commission (the "Commission") seeking a Certificate of Public Convenience and Necessity ("CPCN") to provide wastewater services to one parcel in Sussex County, Delaware, known as Tax Map Parcel No. 235-27.00-18.01 (the "Proposed Service Area"). The basis for the Application is AWM's possession of a petition requesting wastewater services signed by all of the landowners of record of each parcel or property to be encompassed within the Proposed Service Area as required by 26 *Del. C.* §203D(d)(2).

As required by 26 *Del. C.* § 203D and the Commission's *Regulations Governing Certificates of Public Convenience and Necessity to Provide Wastewater Services*, 26 *Del. Admin. C.* § 6001 (the "Regulations"). AWM included the following documentation in its Application: (1) a copy of the petition requesting wastewater services signed by all of the landowners of record of each parcel or property encompassed within the Proposed Service Area; (2) copies of the United States Postal Service forms verifying that the Company sent, via certified mail, a Commission approved notice to all landowners of record of each parcel included in the Proposed Service Area; (3) a list of the County tax map parcel identification numbers of the properties and identification of all landowners of record included in the Proposed Service Area; (4) a copy of the associated tax map clearly marking the Proposed Service Area; and (5) a copy of the letter from Sussex County stating no

objection to the Application¹. Staff found no errors or omissions during its review of the Application.

As required by the Regulations, Staff requested written comment from the Division of Water Resources of the Department of Natural Resources and Environmental Control (“DNREC”), the Delaware Office of State Planning Coordination (“OSP”), and the Sussex County Engineering Department (“County”) regarding the Proposed Service.²

DNREC replied it had no objection to the Commission granting a CPCN to AWMi to provide wastewater treatment and disposal services for the parcel of land.

The County received and reviewed the CPCN application and noted that the Proposed Service Area is located within the Secondary Service Territory per the updated Sussex County Service Territory Map. The County stated that it reviewed the CPCN application and stated it will not object to AWMi requesting a CPCN for the Proposed Service Area.

The OSP also responded and noted that the Proposed Service Area is located within an Investment Level 4 area according to the 2016 Strategies for State Policies and Spending document. Level 4 reflects areas where State investments will support agricultural preservation, natural resources protection, and the continuation of the rural nature of these areas. The OSP stated in their response that “**new development activities and suburban development are not supported in Investment Level 4 areas**, and that these areas are comprised of prime agricultural lands and environmentally sensitive wetlands and wildlife habitats, which should be, and in many cases have been preserved.” OSP states that the State has no intention to invest in infrastructure upgrades or additional services for this area unless necessary for the health, safety, and welfare of the existing residents. OSP further stated that after reviewing the Land Use Planning Act (“LUPA”) and Preliminary Land Use Service (PLUS”) records, that the Proposed Service Area has been through the PLUS process (2016-12-05). The State objected to the development of this parcel due to its location in a level 4 investment area.

In conclusion, the Application filed by AWMi complies with all statutory and regulatory requirements of 26 *Del. § 203D* and 26 *Del. Admin. C. § 6001*. Therefore, consistent with statutory requirements, Staff recommends the Commission approve the Application.

¹ As required by the Regulations, an Application that extends services into the service territory of a municipality, government agency or wastewater authority *must* submit written documentation that such entity has been informed of and has approved such an expansion by the applicant.

² Under Commission rules, the utility is required to file a copy of its application with DNREC, OSP, and: “a) any county within whose boundaries the proposed service territory would be located; and b) any municipality, town or local authority: i) whose boundaries are adjacent to the proposed service territory; or ii) within whose boundaries or existing wastewater service territory the proposed service territory would be located.” While written comment is only required from DNREC, by notifying the other agencies Staff can be alerted if an Application is not filed, or if there is a significant issue with an Applicant or Application that the Commission may wish to consider.